

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

AALIYAH C. JOHNSON,

Movant,

v.

CIVIL ACTION NO. 5:07-0129
(Criminal No. 5:05-0093)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is Aaliyah C. Johnson's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody. (Doc. No. 79.) By Standing Order, this matter was referred to United States Magistrate Judge R. Clarke VanDervort on March 1, 2007. Pursuant to 28 U.S.C. § 636(b), the Standing Order directs Magistrate Judge VanDervort to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation ("PF & R") on November 20, 2009, recommending that this court dismiss the motion and remove this matter from the court's docket. (Doc. No. 97.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's PF & R. Neither party filed objections to the magistrate judge's proposed

findings, and the failure to file objections within the appropriate time frame constitutes a waiver of the right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge VanDervort, the court (1) **CONFIRMS AND ACCEPTS** the magistrate judge's findings (Doc. No. 97); (2) **DENIES** the motion under 28 U.S.C. § 2255 (Doc. No. 79); and (3) **DIRECTS** the Clerk to remove this matter from the court's active docket.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to movant and to all counsel of record.

It is **SO ORDERED** this 15th day of December, 2009.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge